

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
NEW YORK COMMERCIAL BANK,  
:  
Plaintiff,  
:  
-against- : Case No. 12-AP-2052 (BRL)  
:  
PAUL J. PULLO and GENE V. PULLO, :  
:  
Defendants. :  
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**NOTICE OF PLAINTIFF NEW YORK COMMERCIAL BANK'S  
MOTION FOR ABSTENTION AND REMAND**

PLEASE TAKE NOTICE that upon the Motion of Plaintiff New York Commercial Bank for Abstention and Remand dated December 14, 2012 (the "Motion"), and exhibits thereto, and upon all other papers filed and proceedings heretofore had herein, Plaintiff New York Commercial Bank ("NYCB"), by its attorneys Loeb & Loeb LLP, will move this Court before the Honorable Burton R. Lifland, at the United States Courthouse located at One Bowling Green, New York, New York, on **February 5, 2013 at 10:00 a.m.** or as soon thereafter as counsel may be heard:

(1) to abstain from hearing, and to remand, to the Supreme Court of the State of New York, New York County, Commercial Division (the "State Court") the action entitled *New York Commercial Bank v. Paul J. Pullo & Gene V. Pullo*, Case No. 12-Civ-7693 (LTS) (FM), (the "Action"), which was improperly removed from the State Court by notice of removal dated October 15, 2012, pursuant to 28 U.S.C. §§ 1334 and 1452, on the grounds that (1) the Motion is timely; (2) the Action is based solely on state law claims and causes of action; (3) the Action is

only, if anything, "related to" this bankruptcy; (4) the Action could not have been commenced in federal court absent the bankruptcy; (5) a state court action has been commenced; and (6) the Action can be timely adjudicated in State Court; or

- (2) in the alternative, to find that this action must be remanded to the State Court pursuant to the mandatory forum selection provisions of the subject guarantees; and
- (3) for such other and further relief as the Court may find just and proper.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, shall be served so as to be actually received no later than **January 17, 2013 at 4:00 p.m.**

Dated: New York, New York  
December 19, 2012

LOEB & LOEB LLP

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